COUNTY OF DELAWARE PENNSYLVANIA

ORDINANCE No. 2021-13

AN ORDINANCE OF THE COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA AMENDING SECTION 6-12 OF THE ADMINISTRATIVE CODE TO REQUIRE DISCLOSURE OF CERTAIN POLITICAL CONTRIBUTIONS BY COUNTY CONTRACTORS.

WHEREAS, pursuant to Section 6-121 of the Administrative Code (the "Code") of the County of Delaware, Commonwealth of Pennsylvania (the "County"), the Code may be amended by ordinances of the County Council; and

WHEREAS, County Council is concerned that political contributions by County contractors have affected the perception by the citizens of Delaware County of the integrity of Delaware County’s contracting process; and

WHEREAS, County Council believes that public disclosure of certain political contributions will contribute to the fairness and openness of Delaware County’s contracting process;

IT IS HEREBY ENACTED AND ORDAINED BY County Council of Delaware County, Commonwealth of Pennsylvania as follows:

SECTION 1. The Code shall be amended to add a new Section 6-12.E to read as set forth below.


(1). Required Disclosure of Political Contributions.

(a) For contracts subject to an invitation to bid, request for proposal or other contract solicitation, at least eight (8) days before the meeting at which County Council will consider the approval of a covered contract, the Purchasing Department shall provide the County Clerk with all forms from bidders/respondents disclosing any reportable contributions within the twenty-four (24) months prior to such meeting. For all other contracts, at least eight (8) days before the meeting at which County Council will consider the approval of a covered contract, each contractor party to such covered contract shall provide the County Clerk with a form disclosing any reportable contributions within the twenty-four (24) months prior to such meeting. Such disclosure forms shall be included with the publicly posted Agenda materials for the applicable meeting.

(b) If any disclosure form for a covered contract shows reportable contributions, the County Clerk shall publicly post such form on a separate page of the County’s website no later than the public posting of the Agenda for the meeting of County Council where the approval of such covered contract will be considered.

(c) By January 30 of each year, commencing January 1, 2023, each covered contractor under a covered contract with a term exceeding one year shall provide the County Clerk with an updated form showing any reportable contributions in the prior year or indicating that there are none. If a contractor does not provide the required disclosure form within thirty (30) days of written notification from
the County Solicitor of its failure to timely provide such form, the applicable covered contract shall be subject to being voided by County Council.

(d) All invitations to bid, requests for proposal or other contract solicitations by the County for covered contracts shall include a requirement that all bidders/respondents provide the required disclosure form. All covered contracts shall provide the right to void the contract as set forth in this Section 6-12.E.

(2). Implementation of this Section. The County Clerk in consultation with the Director of Purchasing and the County Solicitor shall promulgate forms and procedures required to implement the provisions of this Section 6-12.E. The disclosure set forth in paragraph (1) shall be required commencing April 1, 2022.

(3). Interpretation of this Section. The County Solicitor shall have the authority to provide written interpretations of this Section 6-12.E.

(4). Definitions.

(a) “Candidate” shall have the meaning set forth in 65 Pa. C.S.A. § 1102.

(b) “Contractor” means any non-governmental person, corporation, partnership, association or other entity, whether or not for profit, and includes any subcontractor which is reasonably anticipated to receive compensation of $50,000 or more under the applicable covered contract.

(c) “Covered candidate” means a candidate for: (1) County Council, District Attorney, Sheriff, Controller or Register of Wills in Delaware County; (2) Judge of the Court of Common Pleas of Delaware County or the Magisterial District Courts of Delaware County; (3) any seat in the Pennsylvania General Assembly which represents residents of Delaware County; or (4) any state-wide office in Pennsylvania (non federal).

(d) “Covered contract” means any contract, agreement, memorandum of understanding or other arrangement which is (i) required to be approved by County Council and (ii) under which a covered contractor provides or leases goods, supplies, materials, equipment, consulting, professional or other services, and/or property to the County, whether or not payments under the covered contract are anticipated to be made from general revenues or another specified source of funds, but does not include grant agreements under which the County is the grantee.

(e) “Reportable contribution” means a political contribution (as defined in 65 Pa. C.S.A. § 1102), to:

(A) A covered candidate.

(B) Any Pennsylvania state committee of a political party, any County committee of a political party or any committee of a political party established at the municipal level for a municipality in the County.
(C) A contribution to a political action committee with the intent or expectation that some or all of such contribution will be directed to a covered candidate. This intent shall be presumed if a political action committee only supports one or more covered candidates.

(D) A contribution to a political action committee controlled by a person or entity described in clauses (1) through (5) below.

Reportable contributions shall include contributions by: (1) a contractor; (2) any corporate parent, subsidiary or other affiliate of a contractor; (3) an officer or director of a contractor; (4) a shareholder or partner of a contractor with a 5% or greater ownership interest; and (5) the spouse of any person or entity listed in the preceding clauses; and shall also include any contribution reimbursed by a person or entity listed in clauses (1) through (5).

(5). **Penalties.** Any contractor which fails to provide the disclosure forms required hereby or which submits disclosure forms which are materially inaccurate may be banned as a contractor or subcontractor to the County for a period of up to three (3) years, and/or, to the extent legally permitted, the covered contract in question may be terminated, in each case, by a majority vote of County Council following such investigation and consideration of such evidence as County Council deems appropriate or by action of such other entity or body as may be designated by resolution of County Council.

SECTION 2. This Ordinance shall take effect on the tenth day after its adoption.

ENACTED AND ORDAINED by County Council of the County of Delaware, Pennsylvania, this day of 2021.

COUNTY OF DELAWARE

_____________________________
Brian P. Zidek, Chair

_____________________________
Dr. Monica Taylor, Vice Chair

_____________________________
Kevin M. Madden

_____________________________
Elaine Paul Schaefer

_____________________________
Christine A. Reuther

Attested:

_____________________________
Anne M. Coogan
County Clerk